

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Suzanne P. Ross
3067 W. 12th Place
Yuma, AZ 85354**

Registered Nurse License No. 497520

Respondent.

Case No. 2013-765

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Board of Registered Nursing of the Department of Consumer Affairs (Board), and which is hereby served on you.

A written request for a hearing signed by you must be received to the Board no later than March 29, 2013, which is within 15 days of when the Accusation was served on you or mailed to you. Otherwise, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by faxing, delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by faxing or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

**Brent Farrand
Discipline Legal Support Analyst
Board of Registered Nursing
P.O. Box 944210
Sacramento, CA 94244-2100
Fax No. (916) 574-7609**

You may, but need not, be represented by counsel at any or all stages of these proceedings.

The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any objection

1 to the form of the Accusation unless you file a further Notice of Defense as provided in section
2 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

3 If you file any Notice of Defense within the time permitted, a hearing will be held on the
4 charges made in the Accusation.

5 The hearing may be postponed for good cause. If you have good cause, you are obliged to
6 notify the Office of Administrative Hearings - Los Angeles 320 West Fourth Street, Suite 630,
7 Los Angeles, CA 90013-2350, within ten (10) working days after you discover the good cause.
8 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
9 postponement.

10 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

11 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
12 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
13 control of the Board you may send a Request for Discovery to the designated Deputy Attorney
14 General at the address below:

15 Geoffrey Ward
16 Deputy Attorney General
17 California Department of Justice
18 300 South Spring Street, Suite 1702
19 Los Angeles, CA 90013-0000
20 213-897-2540

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
24 settlement is a binding written agreement between you and the government regarding the matters
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
26 Board of Registered Nursing but once approved; it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary guidelines;
28 however, all matters in mitigation or aggravation will be considered. A copy of the Board's
Disciplinary Guidelines will be provided to you on your written request to the state agency
bringing this action.

1 If you are interested in pursuing this alternative to a formal administrative hearing, or if you
2 have any questions, you or your attorney should contact Deputy Attorney General, Geoffrey
3 Ward at the earliest opportunity.

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GEOFFREY WARD
Deputy Attorney General
4 State Bar No. 246437
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2660
6 Facsimile: (213) 897-2804
Email: geoffrey.ward@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-765

13 **SUZANNE P. ROSS**

A C C U S A T I O N

14 **3067 W. 12th Place**
Yuma, AZ 85354

15 **Registered Nurse License No. 497520**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about January 31, 1994, the Board issued Registered Nurse License Number
23 497520 to Suzanne P. Ross ("Respondent"). The Registered Nurse License has been active at all
24 times relevant herein and expires on September 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. Section 2750 of the Business and Professions Code (all section references will be to
27 the Business and Professions Code unless otherwise noted) provides, in pertinent part, that the
28

1 Board may discipline any licensee, including a licensee holding a temporary or an inactive
2 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
3 Practice Act.

4 4. Section 2764 provides, in pertinent part, that the expiration of a license shall not
5 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
6 to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the
7 Board may renew an expired license at any time within eight years after the expiration.

8 5. Section 118 subdivision (b) grants the Board jurisdiction over suspended, expired,
9 forfeited, cancelled, or surrendered licenses:

10 "The suspension, expiration, or forfeiture by operation of law of a license
11 issued by a board in the department, or its suspension, forfeiture, or cancellation by
12 order of the board or by order of a court of law, or its surrender without the written
13 consent of the board, shall not, during any period in which it may be renewed,
14 restored, reissued, or reinstated, deprive the board of its authority to institute or
continue a disciplinary proceeding against the licensee upon any ground provided by
law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground."

15 STATUTES

16 6. In pertinent part, section 2761 authorizes the Board to discipline registered nurses for
17 misconduct in another state:

18 "The board may take disciplinary action against a certified or licensed
19 nurse or deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the
21 following:

22 ...

23 (4) Denial of licensure, revocation, suspension, restriction, or any other
24 disciplinary action against a health care professional license or certificate by another
state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action."

25 COST RECOVERY

26 7. Section 125.3 authorizes the Board to request the administrative law judge to direct a
27 licentiate found to have committed a violation or violations of the licensing act to pay a sum not
28

1 to exceed the reasonable costs of the investigation and enforcement of the case and to include
2 those costs in any settlement agreement.

3 **CAUSE FOR DISCIPLINE**

4 **(Disciplinary Actions by the Arizona Board of Nursing)**

5 8. Respondent is subject to discipline under section 2761, subdivision (a)(4) for
6 unprofessional conduct because she was disciplined by the Arizona Board of Nursing as follows:

7 9. On or about July 20, 2005, the Arizona Board resolved a disciplinary action entitled
8 *In the Matter of Professional Nurse License No.: RN071694 issued to Suzanne P. Ross Feeley* by
9 entering into a consent agreement with Respondent.

10 10. In that consent agreement, the Arizona Board found that Respondent had exhibited
11 slurred speech and difficulty walking on the job in October 2003, that she had obtained excessive
12 amounts of prescription drugs throughout 2003, that she had a chemical dependency problem
13 requiring outpatient treatment, and that she had begun treatment for that problem in November
14 2004. It concluded that her prescription drug dependency constituted unprofessional conduct.

15 11. As a result of that conclusion, the Arizona Board ordered her Arizona license
16 disciplined and placed her on one year of stayed suspension followed by two years of probation.
17 During that time she was to enter an outpatient chemical dependency rehabilitation program, to
18 participate in rehabilitation aftercare, to undergo a relapse prevention evaluation, to attend
19 Narcotics Anonymous or an equivalent program, to participate in a support group, and to
20 undergo random drug testing, among other requirements.

21 12. On or about May 16, 2007, the Arizona Board again resolved a disciplinary action
22 against Respondent by entering into a second consent agreement with Respondent.

23 13. In that second consent agreement, the Arizona Board found that Respondent had
24 failed to comply with the terms of her probation by providing the appropriate notice to her
25 employer and her supervisors of her probationary status and need for supervision. It also found
26 that on or about the evening of April 30, 2005 to the morning of May 1, 2005, while working for
27 an air ambulance company, Respondent had failed to properly use an Intra-Aortic Balloon Pump
28 on a patient she was attending to during air transport from one hospital to another, endangering

1 the patient. It also "expressed concern" regarding her competency in the use of this pump. As a
2 result, it concluded that Respondent had committed unprofessional conduct by assuming patient
3 care responsibilities that she either lacked the education to perform or for which she had failed to
4 maintain nursing competence.

5 14. In the second consent agreement, the Arizona Board ordered Respondent's Arizona
6 license disciplined and placed on an additional 2 years of probation, including education in the
7 area of patient care of geriatric and paraplegic patients and the use of Intra-Aortic Balloon Pumps
8 and continuing her participation in recovery groups and Narcotics Anonymous.

9 15. After receiving notice of the disciplinary actions in Arizona, the California Board sent
10 letters to Respondent at her address of record in February 2011, June 2011, and May 2012 asking
11 her to provide proof of compliance with the Arizona probation order and for other information.
12 Respondent never responded to those letters.

13 16. Under Section 2761, subdivision (a)(4), the Arizona Board's disciplinary actions
14 against Respondent in July 2005 and May 2007 are each grounds for the California Board to take
15 its own disciplinary action.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 497520, issued to Suzanne P. Ross;

2. Ordering Suzanne P. Ross to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code Section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 14, 2013

for 
LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2013508418
51215745.docx

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Suzanne P. Ross
3067 W. 12th Place
Yuma, AZ 85354**

Registered Nurse License No. 497520

Respondent.

Case No. 2013-765

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

TO RESPONDENT:

Under section 11507.6 of the Government Code of the State of California, parties to an administrative hearing, including the Complainant, are entitled to certain information concerning the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code concerning such rights is included among the papers served.

PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
HEREBY REQUESTED TO:

1. Provide the names and addresses of witnesses to the extent known to the Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
2. Provide an opportunity for the Complainant to inspect and make a copy of any of the following in the possession or custody or under control of the Respondent:
 - a. A statement of a person, other than the Respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the Respondent as to this person is the basis for the administrative proceeding;
 - b. A statement pertaining to the subject matter of the proceeding made by any party to another party or persons;

1 c. Statements of witnesses then proposed to be called by the Respondent and
2 of other persons having personal knowledge of the acts, omissions or events which are the
3 basis for the proceeding, not included in (a) or (b) above;

4 d. All writings, including but not limited to reports of mental, physical and
5 blood examinations and things which the Respondent now proposes to offer in evidence;

6 e. Any other writing or thing which is relevant and which would be
7 admissible in evidence, including but not limited to, any patient or hospital records
8 pertaining to the persons named in the pleading;

9 f. Investigative reports made by or on behalf of the Respondent pertaining
10 to the subject matter of the proceeding, to the extent that these reports (1) contain the names
11 and addresses of witnesses or of persons having personal knowledge of the acts, omissions
12 or events which are the basis for the proceeding, or (2) reflect matters perceived by the
13 investigator in the course of his or her investigation, or (3) contain or include by attachment
14 any statement or writing described in (a) to (e), inclusive, or summary thereof.

15 For the purpose of this Request for Discovery, "statements" include written statements by
16 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
17 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
18 summaries of these oral statements.

19 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
20 should be deemed to authorize the inspection or copying of any writing or thing which is
21 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
22 product.

23 Your response to this Request for Discovery should be directed to the undersigned attorney
24 for the Complainant at the address below within 30 days after service of the Accusation.

25 ///

26 ///

27 ///

28 ///

1 Failure without substantial justification to comply with this Request for Discovery may
2 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
3 Government Code.

4 Dated: 3/14/2013
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Suzanne P. Ross
3067 W. 12th Place
Yuma, AZ 85354**

Registered Nurse License No. 497520

Respondent.

Case No. 2013-765

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

- ☐ The above is my new address of record.
- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Suzanne P. Ross
3067 W. 12th Place
Yuma, AZ 85354**

Registered Nurse License No. 497520

Respondent.

Case No. 2013-765

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

- ☐ The above is my new address of record.
- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.
